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பொருளடக்கம்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 132/Lab./AIL/T/2019,
Puducherry, dated 12th December 2019)

NOTIFICATION

Whereas, an Award in I.D (L) No.11/2016, dated 18-09-2019 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the Industrial Dispute between the management of M/s. Vaigai Industries, Nedungadu Commune, Karaikal and Thiru S. Gowthaman, Thiruvavarur, over reinstatement with back wages has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the Notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L., dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY**

*Present : Thiru V. PANDIARAJ, B.Sc., L.L.M.,
Presiding Officer*

Wednesday, the 18th day of September 2019.

I.D. (L) No. 11/2016

S. Gowthaman,
Ayyampettai,
Manandhakudy Post,
Nannilam Taluk, Thiruvavarur. . . Petitioner

Versus

The Management,
M/s. Vaigai Industries,
Melakasakudi,
Nedungadu Commune,
Karaikal. . . Respondent

This industrial dispute coming on 13-09-2019 before me for final hearing in the presence of Thiru N. Ramar, representative for the petitioner, Ms. Divya, Counsel for the respondent, up on hearing, up on perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This Industrial Dispute arises out of the reference made by the Government of Puducherry, *vide* G.O. Rt. No. 39/AIL/Lab./T/2016, dated 19-05-2016 of the Labour Department, Puducherry, to resolve the following dispute between the petitioner and the respondent, *viz.*,

(i) Whether the dispute raised by Thiru S. Gowthaman against the management of M/s. Vaigai Industries, Karaikal, over reinstatement with back wages is justified or not? If justified, what relief the petitioner is entitled to?

(ii) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. *The averments in the claim statement of the petitioner, in brief, are as follows:*

The petitioner was employed in the respondent/management on 24-04-1999 as Office Assistant and thereafter, he has been promoted as Assistant Commercial Officer and finally, he received monthly salary of ₹14,100. It is the further case of the petitioner that though he was eligible for promotions, he has not been given promotions and increments in par with his colleagues and juniors in appropriate interval/time-limit. It is further stated he was not provided with cell phone and loan facilities, though he was eligible for it and thereby, the management has adopted unfair labour practices against this petitioner. While so on 20-09-2013 the respondent/management has informed that he need not attend the duty from 21-09-2013, and asked him to search for other job and the respondent/management prevented him from his service under the guise of the appraisal of performance by the respondent/management committee. Therefore, this petitioner has failed to attend the duty on 21-09-2013 on the pretext that he may be removed from service and therefore, he has informed that he has chest pain on 21-09-2013. In the meanwhile, the respondent/management has sent a letter, dated 03-10-2013 stating that this petitioner was absent from 21-09-2013 and this petitioner has sent his reply on 10-10-2013 wherein, he has enlightened that he has been advised to, not to attend duty from 21-09-2013. Further, he replied that his rights and the eligible benefits were denied by the respondent/management. While so, the respondent/management has sent another letter, dated 18-10-2013 stating that it has intended to take action against this petitioner for his absence from 21-09-2013 and seeking his reply on or before 31-10-2013 and further, it has advised this petitioner to return to the duty immediately. Thereafter, this petitioner has written a letter to the District Collector

stating that the respondent/management is harassing this petitioner as he belongs to Scheduled Caste community. Further, when the petitioner returns to his duty on 31-10-2013, he was not permitted and he was prevented in the entrance itself. Thereafter, he was admitted to duty as per the instruction of the District Collector, Karaikal, on 13-11-2013, 14-11-2013 and 15-11-2013. Even in that period also, he was not given proper work and he was not permitted to mingle with others and he was directed to sit in a separate table. Thereafter, the respondent/management has issued the charge memo, dated 14-11-2013 and it was also suitably replied by this petitioner on 15-11-2013.

Even then, the respondent/management has fixed the date of enquiry as 17-11-2013 at Madurai and to that effect, notice was issued to this petitioner on 15-11-2013. The notice, dated 15-11-2013 has no details regarding the Enquiry Officer. Further, no enquiry notice was not received by this petitioner from the Enquiry Officer. As the place of enquiry was at a distance of 300 Kms. away from the factory, this petitioner explained his inability to attend the enquiry at Madurai. Therefore, the place of enquiry was shifted to the factory at Karaikal and the date was fixed as 19-11-2013 and in that notice also the details of the Enquiry Officer was not given purposely. At the time of Departmental Enquiry on 19-11-2013 he was forced to signed in a paper by an unknown person. Further, he was also forced by Mr. Veerabagu, General Manager, Nagarajan, Assistant General Manager and one another person also forced this petitioner to make a sign in a paper. As this petitioner refused to do so, he was compelled to go out of the premises, hence, this petitioner came out from the Enquiry Officer chamber and immediately he has report the matter of compulsion to the respondent/management in his letter, dated 19-11-2013. Even then, the respondent/management has completed the Departmental Enquiry in *ex parte* on 19-11-2013 and 21-11-2013. Therefore, this petitioner has sent a letter to the respondent/management stating that the decision of the Departmental Enquiry would not bind this petitioner and that letter was also not considered by the respondent/management. Further, this petitioner again sent a letter to the respondent/management on 27-11-2013 stating that he should not be removed from service. The respondent/management was not ready to accept the explanation given by this petitioner and hence, this petitioner made a representation before the Conciliation Officer on 10-12-2013 for reinstatement. A separate complainant was also given to the District Collector, Karaikal seeking reinstatement. The District Collector Karaikal conducted the enquiry and passed an order in favour

of this petitioner and directed the respondent/management to give reemployment and the order was passed on 17-02-2014 and thereafter, this respondent/management has obtained the stay order against the order passed by the District Collector, Karaikal. The respondent/management has stated that this petitioner will not come under the category of work under section 2(s) of the Industrial Disputes Act. The respondent has raised an objection before the Conciliation Officer that the Hon'ble High Court, stayed the matter and therefore, he could not proceeded with the conciliation proceedings. Thereafter, the Conciliation Officer sent his failure report on 28-01-2014. The respondent/management has not conducted the Departmental Enquiry in a fair manner and it was conducted against the principles of the natural justice. This petitioner was not provided with chance to contest the Departmental Enquiry and it was completed in *ex parte*. The Departmental Enquiry was conducted in an eyewash manner and he was removed from service purposely. This petitioner has stated that he belongs to Scheduled Caste community and it was as per the instruction given by respondent/management he mentioned his community as Most Backward Class. Though he belongs to Scheduled Caste community. Even though, these are the true facts, the respondent/management has suppressed the abovesaid facts and removed the petitioner from the employment. Since, the petitioner has been removed from the service without adopting natural justice in Departmental Enquiry, the petitioner was entitled for reinstatement, backwages and other monthly benefits and therefore, this petition has to be allowed.

3. The brief averments in the counter filed by the respondent are as follows :

The case of the respondent is that it is running the manufacturing industry in the name and style of Vaigai Industries and this petitioner has entered into service on 01-06-1999 and has submitted his Bio Data wherein, he has mentioned his caste as Most Backward Class. This petitioner was under probation for a period of one year and his service was confirmed on 01-06-2001 as Assistant and thereafter, he was promoted as follows:

| Date of Promotion | Designation |
|-------------------|-----------------------------|
| 01-06-1999 | On probation |
| 01-06-2001 | Confirmed as Assistant |
| 01-07-2001 | SeniorAssistant |
| 20-02-2003 | Officer (Commercial) |
| 01-04-2008 | Senior Officer (Commercial) |

He was directed to do Central Excise work, Sales invoice and dispatching of finished goods. The followings increments were also given to him as per details given below:

| Increment Date | Increment Amount | Gross Salary |
|----------------|------------------|--------------|
| 01-06-1999 | Joining | 1,250 |
| 01-06-2000 | 500 | 1,750 |
| 01-07-2001 | 1,000 | 2,750 |
| 01-04-2002 | 300 | 3,050 |
| 01-04-2003 | 700 | 3,750 |
| 01-04-2004 | 400 | 4,150 |
| 01-04-2005 | 600 | 4,750 |
| 01-04-2006 | 1,000 | 5,750 |
| 01-04-2007 | 1,250 | 7,000 |
| 01-04-2008 | 1,100 | 8,100 |
| 01-04-2009 | 2,000 | 10,100 |
| 01-04-2010 | 1,000 | 11,100 |
| 01-04-2011 | 2,500 | 13,600 |
| 01-04-2012 | 500 | 14,100 |

This petitioner was unauthorizedly absent from 21-09-2013 and he was directed his explanation for his unauthorized absent and he was directed to join duty immediately as per letter, dated 03-10-2013 by this respondent, but, this petitioner has given reply with false allegation that he has been harassed by this respondent as he belongs Scheduled Caste community. The factum that he belongs to Scheduled Caste community came to the knowledge of this respondent from 10-10-2013 only, as per his reply. Further, this petitioner threatened the respondent by stating that if, he is not reinstated to the job with all facilities, he would give complaint under the provision of SC/ST (Prevention of Atrocities Act, 1989). Further, this respondent has denied the allegations in its letter, dated 18-10-2013 and it has also replied that there was no harassment made to this petitioner in the company and all the allegations raised by this petitioner was totally denied by this respondent. Further, this respondent has issued a letter, dated 18-10-2013 calling explanation as well as intimated that the respondent would take the disciplinary proceedings against this petitioner for his unauthorized absent and for furnishing wrong information regarding his community and for threatening the respondent under the caption harassment under the Provision of SC/ST Act, 1989. This petitioner again sent a letter, dated 28-10-2013 with very same false allegations and he has informed that he has filed a complaint before the District Collector and he should report to duty only after

the completion of the enquiry by the District Collector, Karaikal. In the mean while, the Labour Officer, Karaikal made an inspection on 07-10-2013 as per the direction of the District Collector, Karaikal, in the factory premises and he has filed a favourable report in support of the respondent/management after having made thorough enquiry among the staffs and other employees. The Labour Officer has stated in his report there was no caste discrimination as alleged in the petition filed before the Collector. The Labour Officer has reported that this petitioner was voluntarily absent from 21-09-2013. The abovesaid report was given only after having conducted proper enquiry conducted by him in the premises of the respondent factory in the presence of the labourers as well as employees. Further, the Labour Officer has reported that this petitioner was given periodical promotions and increments as per his performance. The Labour Officer has stated that this petitioner has failed to attend duty on 21-09-2013 as the Performance-Management System review meeting was scheduled to be held on that day. It is further, reported that the petitioner was negligent on his part, and this petitioner has failed to attend the duty on 21-09-2013. It is not necessary to provide the cell phone facilities to this petitioner as there is permanent seat available to this petitioner. Further, he was provided with intercom facility. In the mean time, the petitioner has filed an another complaint seeking his arrears salary and bonus for the period of September 2013 and it was given on 11-11-2013 by way of two cheques. This petitioner failed to give his explanation for the notice, dated 18-10-2013 and therefore, a charge-sheet, dated 14-11-2013 also given, wherein, charges were framed for his wrong information as to his caste, making of false allegation under the caption of SC/ST community, false allegation of harassment before the Collector and thereby, tarnishing the image of the respondent, unauthorized leave from 21-09-2013 to 12-11-2013 and making false allegation against the respondent and thereby, spoiling the morale of the respondent among the existing employees and making loss to the confidence reposed by the respondent against this petitioner. In the mean time, this respondent was directed to permit the petitioner to join duty by the Collector and therefore, this petitioner was permitted to work from 13-11-2013 to till 15-11-2013. Thereafter, again this petitioner failed to turned up to the duty from 16-11-2013. This respondent has given notice to the petitioner stating that the Departmental enquiry is scheduled to be held on 17-11-2013 at Madurai and the petitioner has informed his inability to attend the enquiry at Madurai and therefore, the enquiry was rescheduled to 19-11-2013 at Karaikal factory itself. Though

the petitioner attended the enquiry, he left from the enquiry office abruptly without any reasons and without signing in the proceedings and he has made false allegations on the very same date itself against the Enquiry Officer, Senior General Manager, Assistant General Manager and Deputy Manager. This respondent has intimated that he has left the enquiry abruptly without any reasons thereafter, this respondent has sent a reply letter, dated 21-11-2013 to the petitioner regarding his false and baseless allegations.

Since, the petitioner failed to signed the enquiry proceedings on 19-11-2013, the enquiry was completed on 22-11-2013 in *ex parte* by the Enquiry Officer. Thereafter, a second show cause notice was issued to this petitioner on 22-11-2013 seeking his explanation for the proposed punishment. This petitioner has sent the reply on 22-11-2013 itself with same false allegation against the Enquiry Officer and the representative of this respondent and stated that the decision based on Enquiry Officer report would not bind him. Further, again a letter was sent by this respondent on 25-11-2013 advising this petitioner, not to make any false allegation in contradiction to his earlier letter, dated 19-11-2013 and 22-11-2013 regarding the Enquiry Officer and his report. For which this petitioner has given the reply on 27-11-2013 which was not satisfactory to this respondent. Since, the charges levelled against the petitioner was proved in the enquiry and hence, decided to impose punishment in concurrence with the findings of the Enquiry Officer. Therefore, he was dismissed from service from 29-11-2013 and after that this petitioner has filed the petition before the Labour Officer, Karaikal, seeking reinstatement and other benefits, in the mean while, this respondent has received a letter, dated 03-01-2014 from the District Collector wherein, the District Collector has intimated there was an enquiry is scheduled to be held on 09-01-2014 based on the petition submitted by this petitioner and this respondent has given a suitable reply to the District Collector and he has acted in a biased manner on the allegations raised by this petitioner and it was strongly denied by this respondent. Even then it ends in vain. The District Collector, Karaikal, failed to see the report of the Karaikal Labour Officer, dated 07-11-2013 and the District Collector, Karaikal, has not given adequate opportunities to this respondent to produce the relevant documents and directed this respondent to reinstate the petitioner with immediate effect. Thereafter, this respondent has obtained the stay order from the Hon'ble High Court against the order passed by the Collector on 17-02-2014, it was also informed to the Conciliation Officer and the

Conciliation Officer was requested to stop the conciliation proceedings and he failed to do so and finally the Conciliation Officer has filed his failure report. The Labour Officer, Karaikal, has given a true and clear report to the District Collector, Karaikal, wherein, he has clearly and categorically reported that there is no caste discrimination in the factory run by this respondent and he has clearly stated that this petitioner's allegations were baseless. The Labour Officer has personally inspected the factory and enquired the employees and submitted his report to the Collector stating that there is no truth in the allegation raised by the petitioner. Hence, this petition has to be dismissed.

4. In the course of enquiry, no oral evidence was adduced on both sides. Ex.P1 to Ex.P22 were marked on the side of the petitioner and at the same time Ex.R1 to R38 were marked on the side of the respondent/management and both side Counsels argued their respective cases on the basis of the documents marked on either side.

5. *The point for consideration is:*

Whether the petitioner is entitled for the order for reinstatement with backwages, continuity of service and all other attendance benefits or not?

6. The petitioner side representative argued that the petitioner was employed in the respondent/management and he was falsely charge-sheeted with an ulterior intention to remove him from the job and in the course they have conducted the disciplinary enquiry in an eye washed manner, without following the natural principles of justice and the Enquiry Officer has acted in a biased manner and concluded the proceedings in favour of the management and thereby, he was removed from the service, and it was the against natural principles of justice, and hence, he submitted that the petitioner has to be reinstated with all other monetary benefits. The representative for the petitioner has also filed the written argument before this Court.

7. The Counsel for the respondent argued in his case in an elaborate manner, and he has also filed the written argument before this Court. It is argued by the respondent Counsel that the respondent/management has followed the natural principles of justice and the Enquiry Officer has concluded the disciplinary proceedings with findings against this petitioner and thereafter, he was removed from his service on the basis of the report given by the Enquiry Officer. It is further, argued that the petitioner has filed the petition before the District Collector, Karaikal and other officers with false allegation with *mala fide* intention and he was absent for the duty from 21-09-2013 till 12-11-2013. Further, he has mentioned his community category as

“Most Backward Class” even though, he belongs to Scheduled Caste category and thereby he has given false information at the time of joining and thereby committed misconduct. Since, he was absent without permission, and filed false allegation against the respondent/management and filed false bio-data details regarding his community as “Most Backward Class” though he belongs to “Scheduled Caste” category, he has been duly removed from his service after proper enquiry and hence, he submitted that this petition cannot be allowed and it has to be dismissed with cost.

8. The first point to be determined is whether the disciplinary proceedings conducted by the respondent/management was biased one or not? Whether principles of natural justice was followed or not? Then whether the removal of this petitioner from the job is right or wrong or excessive? has to be decided as the next point.

9. *On point No. 1.*

The performance appraisal team of the respondent/management from its head office, Madurai Scheduled its programme for appraisal of the performance of the workers on 21-09-2013 in the respondent factory at Karaikal and on that day this petitioner has not attended the duty and which has resulted in issuance of memo to this petitioner following and disciplinary enquiry by the Enquiry Officer and in result of which this petitioner was removed from the service and therefore, this petitioner has approached the Conciliation Officer at Karaikal, and Conciliation Officer, Karaikal filed his failure report, resulted in reference of this industrial dispute to this Tribunal. All these facts are admitted by both parties.

10. Admittedly, this petitioner has not attended the duty on 21-09-2013 and hence, the respondent/management has sent the warning letter, dated 03-10-2013 to this petitioner. The abovesaid document was marked as Ex.R8 on the side of this respondent. On perusal of Ex.R8 it would goes to shows that this petitioner has been advised to report the duty immediately and he has been directed to give his written explanation for his failure to attend the duty on 21-09-2013, the date on which the Appraisal Committee scheduled to visit that factory. From Ex.R8 this Court come to the conclusion that the respondent/management has not taken any victimization activity against this petitioner, instead of that this respondent/management has duly give the warning letter to this petitioner. So, Ex.R8 would go to show that this respondent/management has followed the natural principles of justice in the initial stage, but, the petitioner has conveniently suppressed that the abovesaid warning letter, dated 03-10-2013 issued by the respondent/management for his convenience it would goes to shows that his petitioner has not come to the Court with clean hands.

11. The reply letter, dated 10-10-2013 sent by this petitioner was marked as Ex.P1 on the petitioner side and the very same document was marked as Ex.R9 on the side of the respondent. This petitioner has replied that he was harassed by the officials in the respondent/management as he belongs to Scheduled Caste community and alleged that he was not permitted to attend duty on 21-09-2013. Further, it is also replied that he was informed on 20-09-2013 itself, that he was going to be removed from service on 21-09-2013, on the basis of the Appraisal of the Performance Committee report. Thereafter, this respondent/management has sent a reply letter, dated 18-10-2013 to this petitioner and the abovesaid document, dated 18-10-2013 was marked as Ex.P2 on the side petitioner and the copy of the very same document was marked as Ex.R11, on the side of the respondent. This respondent denied all the allegations levelled against the respondent/management by this petitioner in his letter, dated 10-10-2013. Further, this respondent has directed this petitioner to give his explanation on or before 31-10-2013 and it has levelled 12 charges against this petitioner as per Ex.R11/P2. Ex.R11/P2 would goes to show that this petition was given ample opportunity to give his explanation. So, Ex.P2/R11 would also goes to show that natural principles of justice was followed and explanation was called for after giving sufficient opportunities to this petitioner. Thus, Ex.R8 would goes to show that initial warning letter was given to this petitioner, and after getting the reply from this petitioner only his explanation was called for from this petitioner as per Ex.R11. So, all these things show that natural principles of justice was followed by the respondent/management.

12. This petitioner has given reply to the memo issued by the respondent/management on 31-10-2013 *vide* Ex.R18. In the reply, dated 31-10-2013, this petitioner has mentioned the same allegations that was raised in earlier letter, dated 10-10-2013. After analysing the replies in the letters, dated 10-10-2013 and 31-10-2013, this respondent has issued a charge memo to this petitioner *vide* Ex.R18. It would goes to shows that for absence of the petitioner on 21-09-2013 and on subsequent dates and for false allegations, this respondent/management has given sufficient time and thereafter only it has given a charge memo, dated 14-11-2013. Ex.R18 would goes to show the principles of natural justice was followed before issuing charge memo to this petitioner. This petitioner has given his reply in Ex.P5 on 15-11-2013. The copy of the very same document is marked as R19. In the reply, dated 15-11-2013 also the petitioner has replied that the explanation given in his letters, dated 10-10-2013 and 31-10-2013 has to be taken as the explanation for the charge memo.

Since, the respondent/management was not convinced by the reply, dated 15-11-2013, the enquiry notice was issued to the petitioner on 15-11-2013 itself as per Ex.R20. For the enquiry notice also the petitioner has given his reply on 16-11-2013 and it was marked as Ex.R21. The reply notice, dated 16-11-2013 which was marked as Ex.R21 given by this petitioner would go to show that he was unable to attend the enquiry at Madurai, in the Head Office as it was far away of nearly 300 kilometers from Karaikal and his request was also accepted by this respondent/management and therefore, it has changed the venue and date of disciplinary enquiry and the enquiry has been fixed at Karaikal on 19-11-2013. So, the reply given by this petitioner on 16-11-2013 was also carefully considered by this respondent/management wherein, also natural justice followed and the date and place also has been modified in accordance with his request. This would go to show that the respondent/management has once again followed the principles of natural justice in this case. On the side of this respondent/management, the Ex.R27 and R28 were marked and it would go to show that this petitioner has attended the enquiry and this petitioner has left the enquiry and the proceedings were recorded in his presence and it would also go to show that this petitioner has refused to sign in the enquiry proceedings and left the enquiry proceedings abruptly. Further, it would go to show that since the petitioner has gone out without instruction abruptly from the place of enquiry, without any genuine reasons and enquiry has been continued and concluded on the same date. This petitioner has sent a letter to the respondent/management on 19-11-2013 itself and it was marked as Ex.P6 on his side. The copy of the very same document was marked as Ex.R25 on the side of the respondent. On perusal of Ex.P6/Ex.R25 it is found that this petitioner has made same allegations wherein, he has stated that an unknown person has compelled him to give his signature in a paper and this petitioner has questioned it and this petitioner has stated that he has no knowledge about the enquiry proceedings and he has sought permission to defend his case by his Advocate and he has given a letter to the Enquiry Officer and it was refused by them and therefore, he has left the place of enquiry. To prove the abovesaid aspects, this petitioner has not examined any single witness in this aspect. Further, he has not produced any document that natural justice was not followed at the time of enquiry proceedings. Ex.P6 would go to show, that he has made bald allegations without any genuine records and reasons. In order to strengthen his abrupt walk out without signing the enquiry proceedings, this petitioner has made allegations in his letter, dated 19-11-2013 against the Enquiry Officer also. The Enquiry Officer has never ever seen this petitioner

before 19-11-2013. Therefore, he may not have evil motive or intention against this petitioner. Therefore, giving false allegations against the Enquiry Officer in his letter, dated 19-11-2013 would go to show, that this petitioner is not interested to participate in the enquiry proceedings and therefore, he has left the enquiry proceedings abruptly. Hence, analysing the document Ex.P6, this Court come to the conclusion that there was no bias act on the side of the Enquiry Officer. The Enquiry Officer has continued and concluded his enquiry proceedings on 19-11-2013 in his absence and it was done under no other option except to continue and concluded his enquiry. This respondent has filed Ex.R27 and Ex.R28 wherein, it has been clearly mentioned that charges against him was proved and the Enquiry Officer by name, V.O.S. Kalaiselvam has completed the enquiry after following the natural principles of justice. On perusal of Ex.R28 it is found that the Enquiry Officer has conducted the enquiry after giving proper chance to the both parties after recording their evidence and after analysing the same, he has submitted his report against this petitioner, on the basis of the evidence and records available against this petitioner. Therefore, principles of natural justice was clearly followed in this case by the Enquiry Officer also.

13. This petitioner has filed the document, dated 22-11-2013 as Ex.P9 and the copy of the very same document was marked as Ex.R29, it was nothing but, the second show cause notice issued on the basis of the findings of the Enquiry Officer, dated 22-11-2013. This petitioner has also given reply to the second show cause notice, dated 22-11-2013, it was marked as Ex.P8 and the copy of the very same document was marked as Ex.R30, in that reply also this petitioner has taken a very same stand that the Enquiry Officer was not known to him and an unknown person compelled him to give signature and he has refused for it and he has been compelled by the Deputy Manager Veerababu and the Assistant General Manager Nagarajan and therefore, he has left out from that place and therefore, findings of the Enquiry Officer would not bind him. Though this petitioner has raised all his objection he never ever asked for reopening of the enquiry report. Further, as per the Ex.P9 he has not seeks further enquiry or he has not stated that he is intended to file an appeal against the findings of the Enquiry Officer. Whereas, he has stated that removal of this petitioner from the job is illegal and against the principles of natural justice. But, on perusal of Ex.R33, dated 29-11-2013, it is found that he has been dismissed from his service on 29-11-2013 only, and before that itself, this petitioner has replied on 27-11-2013 itself that his removal was against the principles of natural justice, and this would go to show that this petitioner has pre-designed mind that he would be dismissed. This would go to show that

he had a predesigned mind and defence that the disciplinary proceedings was conducted against natural principles of justice. On perusal of documents, dated 03-10-2017 (warning notice) 10-10-2017 reply by this petitioner, 18-10-2017 (reply by the respondent), 14-11-2013 (charge memo), 15-11-2013 (reply of the petitioner) 16-11-2013 (notice of enquiry) 19-11-2013 (letter of the petitioner) 22-11-2013 (second show cause notice) 27-11-2013 (explanation by this petitioner) and 29-11-2013 (termination order), this Court come to the conclusion that natural principles of justice was followed. This Court come to the conclusion that principles of natural justice was followed in this case and this petitioner was terminated from his service only after giving warning notice, charge memo, reply, enquiry proceedings, reply, finding of the enquiry and on second show cause notice. Hence, this Court come to the conclusion that this petitioner was terminated from service after following principles of natural justice before and after the completion of enquiry and also at the time of disciplinary enquiry proceedings. Hence, this point is answered against this petitioner.

14. *On point No. 2.*

Whether the promotion of the petitioner from the job is proportionate or not? or excessive? is the next point for consideration.

15. This petitioner has stated that he was prevented from to attend the duty on 21-09-2013 and on further dates. But, it was not proved by him. At the same time, on perusal of records it is found that he has not attended the duty from 21-09-2013 to 12-11-2013 and he has attended the duty on 13-11-2013, 14-11-2013 and 15-11-2013 only. So, the first allegation raised against the respondent/management is seems to be baseless. Further, this petitioner himself admitted that he belongs to Scheduled Caste Community, whereas, in Ex.R2 he stated himself as Most Backward Class candidate, which is nothing but, his application and bio-data which has been filed during his appointment time before the respondent/management. As per the Judgment of the Hon'ble Delhi High Court reported in—

2013-I-LLJ- Page No. 556 in

Lallan Jha

Vs.

Union of India and Others,

it is held that furnishing forged and fake mark sheet is nothing but, an act of misconduct. The abovesaid Judgment in para No. 12 and 13 it is held as follows:

Para No. 12: Considering the submissions made by the Counsel for the parties and after examining the record we find that no interference is called for in the Tribunal's Orders which are impugned before us.

The Tribunal had concluded that it is difficult to give credence to the contentions of the petitioner as there would be no one else who would stand to gain except the petitioner himself from the mark sheet placed in his personal file. The Tribunal also concluded that the petitioner would not have been taken into employment and subsequently regularized without a proper document showing that he had fulfilled the basic requirement of being high School pass. Therefore, according to the Tribunal, it was the petitioner alone who would stand to gain by submitting the Certificate. It is not in dispute that the mark sheet of the Haryana Board was in the personal file of the petitioner. The said mark sheet pertained to the petitioner. The Tribunal was also of the view that the charge against the petitioner specifically dealt with the issue of furnishing the forged, and fake mark sheet from Haryana and it has been established that the mark sheet was fake and that the petitioner had not matriculated from Haryana. The Tribunal also held that the story put together by the petitioner before the appellate authority and before the Tribunal was an after-thought.

Para No. 13. We agree with these conclusions and we would also like to point out that the petitioner's story does not have a ring of truth for the simple reason that in the first instance when he replied to the charge-sheet he did not mention anywhere that the Certificate that had been mentioned in the charge-sheet was not submitted by him. In fact, in the reply there is not even a whisper of his having matriculated from Bihar and not from Haryana. The Tribunal is absolutely right in coming to the conclusion, in these circumstances that the story now, put up by the petitioner is an after-thought and a device to somehow wriggle out of the difficulty in which he finds himself.

16. Here in this case also this petitioner has given a false communication regarding his community category as if, he belongs to Most Backward Class category, though he belongs to Scheduled Caste category in truth. It shows that this petitioner does not have a ring of truth. Further, this petitioner has not given any explanation in this regard, either before the Enquiry Officer or before this Tribunal. Hence, as per the abovesaid citation giving false information at the time of appointment will also amounts to misconduct for which punishment of termination from service can be ordered.

17. The second allegations raised by this petitioner against the respondent/management is that he was subjected to harassment, as he belongs to Scheduled Caste Community, whereas, all the allegations that was raised by him found as baseless as per the report filed by the Labour Officer, Karaikal, on 13-11-2013 it was also

marked as Ex.R17. Further, this petitioner has given complaint to the District Collector, Karaikal against this respondent/management as per document Ex.P3. If, at all this petitioner is really harassed by the respondent/management he would approach the Police Department for necessary action, but, it was not done so far, by this petitioner. Further, this petitioner has not stated that when and where he was subjected to such harassment. To that effect he has not filed any single piece of document and he has not examined anybody else either in this proceedings or before the Enquiry Officer. Further, this petitioner has failed to prove that he was not periodically promoted with comparison table. Therefore, that allegations also found to be baseless. At the same time, the respondent/management has filed tabular column showing his date of increment and date of promotions. The respondent/management has terminated this petitioner from the job for his proven misconduct.

18. The allegations that was raised against the respondent/management was found to be severe one. It is not a simple case of allegations. The respondent/management is running a factory with huge number of employees, in such a place, if, this petitioner is kept in service, definitely he may ruin the minds of the other employees also. Therefore, under these circumstances only, this respondent/management has taken the extreme step of termination from service. Hence, this Court comes to the conclusion that the termination of this petitioner is in proportionate and it is not disproportionate. Hence, this point is also answered against this petitioner.

19. Whether this petitioner is entitled for any other benefits? also to be consider for this case?.

20. During the disciplinary enquiry, this petitioner has claimed his arrears in his salary and for the bonus, it was marked as Ex.R15, and based on the petition submitted by this petitioner on 11-12-2013, the arrears of salary and bonus were given to this petitioner as per Ex.R18. Therefore, this petitioner is not entitled for any other benefits and hence, this point is answered accordingly.

21. In the result, this industrial dispute raised by this petitioner, over his non-employment is found unjustified and this petition is dismissed. No cost.

Dictated to the Stenographer, transcribed by him, corrected and pronounced by me in the open Court on this the 18th day of September, 2019.

V. PANDIARAJ ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witnesses: Nil

List of petitioner's exhibits:

| | | |
|--------|--------------|--|
| Ex.P1 | — 10-10-2013 | Letter of the petitioner addressed to the respondent. |
| Ex.P2 | — 18-10-2013 | The reply of the respondent. |
| Ex.P3 | — 25-10-2013 | The letter of the petitioner addressing in the name of the Director and informing the complaint issued to the Collector. |
| Ex.P4 | — 14-11-2013 | The charge memo issued against the petitioner. |
| Ex.P5 | — 15-11-2013 | The reply of the petitioner to the charge memo. |
| Ex.P6 | — 19-11-2013 | Letter of the petitioner. |
| Ex.P7 | — 21-11-2013 | Reply of the respondent to the letter of the petitioner. |
| Ex.P8 | — | Explanation of the petitioner to the 2nd show cause notice. |
| Ex.P9 | — 22-10-2013 | The 2nd show cause notice. |
| Ex.P10 | — 27-11-2013 | Explanation of the petitioner. |
| Ex.P11 | — 29-11-2013 | Copy of Order of termination issued against the petitioner. |
| Ex.P12 | — 17-02-2014 | Copy of Order of the District Collector issued to the respondent. |
| Ex.P13 | — 10-12-2013 | Copy of letter of the dispute raised by the petitioner. |
| Ex.P14 | — 27-01-2014 | Copy of the letter of the respondent addressed to the Labour Department. |
| Ex.P15 | — 05-05-2014 | Copy of the letter of the petitioner addressed to the Labour Department. |
| Ex.P16 | — 13-10-2014 | Copy of the letter of the petitioner addressed to the Labour Department. |
| Ex.P17 | — 04-11-2014 | Copy of the letter of the respondent addressed to the Labour Officer. |
| Ex.P18 | — 06-02-2015 | Copy of the letter of the petitioner addressed to the Labour Department. |
| Ex.P19 | — 12-03-2015 | Copy of the letter of the respondent addressed to the Labour Department. |

- Ex.P20 — 16-04-2015 Copy of the letter of the petitioner addressed to the Labour Department.
- Ex.P21 — 19-05-2015 Copy of the letter of the respondent addressed to the Labour Department.
- Ex.P22 — 28-01-2016 Copy of the failure report of the Labour Department.

List of respondent's witnesses: Nil.

List of respondent's exhibits:

- Ex.R1 — 01-07-2001 Order of redesignation of the petitioner.
- Ex.R2 — 24-04-1999 Application with Bio-Data of the petitioner for appointment.
- Ex.R3 — 02-05-2005 Order of increment to the petitioner.
- Ex.R4 — 26-06-2007 Order of increment to the petitioner.
- Ex.R5 — 04-09-2009 Order of increment to the petitioner.
- Ex.R6 — 01-09-2011 Order of increment to the petitioner.
- Ex.R7 — 01-08-2012 Order of increment to the petitioner.
- Ex.R8 — 03-10-2013 Letter of warning for absents.
- Ex.R9 — 10-10-2013 Letter of the petitioner addressed to the respondent.
- Ex.R10 — 10-10-2013 The reply of the petitioner threatening the management to file complaint under SC & ST Act.
- Ex.R11 — 18-10-2013 The reply of the respondent.
- Ex.R12 — 28-10-2013 The letter of the petitioner addressing in the name of the Director and informing the complaint issued to the Collector.
- Ex.R13 — 31-10-2013 The letter of the petitioner addressing in the name of the Director.
- Ex.R14 — 04-11-2014 The letter of the respondent addressed to the Labour Officer.
- Ex.R15 — 08-11-2013 Letter of the petitioner.
- Ex.R16 — 12-11-2013 Payment of salary and bonus to the petitioner.

- Ex.R17 — 12-11-2013 The inspection report submitted by Labour Officer to the District Collector.
- Ex.R18 — 14-11-2013 The charge memo issued against the petitioner.
- Ex.R19 — 15-11-2013 The reply of the petitioner to the charge memo.
- Ex.R20 — 15-11-2013 Notice of enquiry.
- Ex.R21 — 16-11-2013 Reply of the petitioner.
- Ex.R22 — 16-11-2013 Notice of enquiry.
- Ex.R23 — 19-11-2013 The letter of intimation about walk out of the petitioner from the enquiry.
- Ex.R24 — 19-11-2013 Memo for walking out from the factory premises.
- Ex.R25 — 19-11-2013 Letter of the petitioner.
- Ex.R26 — 21-11-2013 Reply of the respondent to the letter of the petitioner.
- Ex.R27 — — Enquiry proceedings.
- Ex.R28 — 22-11-2013 Findings of the Enquiry Officer.
- Ex.R29 — 22-11-2013 The 2nd Show cause notice.
- Ex.R30 — — Explanation of the petitioner to the 2nd Show cause notice.
- Ex.R31 — 25-11-2013 The reply of the respondent to the letter of the petitioner.
- Ex.R32 — 27-11-2013 Explanation of the petitioner.
- Ex.R33 — 29-11-2013 Order of termination issued against the petitioner.
- Ex.R34 — 03-01-2014 The notice of hearing issued by the Collector along with complaint of petitioner.
- Ex.R35 — — Salary Slip of the petitioner.
- Ex.R36 — 17-02-2014 Order of the District Collector issued to the respondent.
- Ex.R37 — 25-03-2014 The Interim-stay granted by the Hon'ble High Court.
- Ex.R38 — 28-01-2016 The failure report.

V. PANDIARAJ ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.